

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

LAWRENCE PATRICK PHILLIPS,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.: 2:05-CV-1159-T
)	
ANTHONY CLARK, et al.,)	
)	
Defendants.)	

ANSWER

COME NOW the Defendants, Covington County Sheriff Anthony Clark and former Jail Administrator Kevin Smith, and respond to the Complaint filed by Plaintiff in the above-styled cause and state as follows:

1. Plaintiff brings his suit under 42 U.S.C. § 1983 and claims that his constitutional rights were violated by Defendants.¹ More specifically, as a pretrial detainee, the Plaintiff alleges that his rights have been violated in that the Defendants were deliberately indifferent to a serious risk of harm caused by (a) defendant Kevin Smith's alleged assault; (b) another inmate's perceived intent to harm him, and (c) failure to provide medical attention.

2. Defendants admit that the Plaintiff was incarcerated on or before August 26, 2005, at the Covington County Jail. Defendants deny the remaining allegations and inferences in the Plaintiff's Complaint.

¹ The following statement of the issues and claims made by Plaintiff are based upon Plaintiff's Complaint and the undersigned's interpretation of the issues raised. If other issues are presented, Defendants generally deny any such allegations as being untrue and completely without basis in law or fact.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint separately and severally fails to state a claim upon which relief can be granted. Defendants did not deprive Plaintiff of any constitutional right to which he is entitled.

2. Any claims against these Defendants in his official capacities are barred by the Eleventh Amendment and because this Defendants is not a "person" under 42 U.S.C. § 1983.

3. These Defendants are entitled to qualified immunity in his individual capacity.

4. The Plaintiff's claims are barred due to the Plaintiff's failure to exhaust all available state remedies.

5. Defendants reserve the right to add additional defenses upon a complete investigation of Plaintiff's claims, completion of any discovery allowed, and if any further pleading is required or allowed by the Court.

WHEREFORE, PREMISES CONSIDERED, Defendants request this Court to enter judgment in their favor and grant unto them costs and attorney's fees pursuant to law and 42 U.S.C. § 1988.

Respectfully submitted on this the 23rd day of January, 2006.

s/Scott W. Gosnell
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CERTIFICATE OF SERVICE

I hereby certify that on this the 23rd day of January, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF and served the following by U.S. Mail:

Lawrence Patrick Phillips
Covington County Jail
290 Hillcrest Drive
Andalusia, Alabama 36420

s/Scott W. Gosnell
OF COUNSEL